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OFFICE OF GENERAL  
COUNSEL

VIA HAND DELIVERY

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Reference Number  
033487-00001

Re: MUR 6481/Ron Paul 2012 Presidential Campaign Committee Inc.

Dear Mr. Jordan:

This response is submitted on behalf of the Ron Paul 2012 Presidential Campaign Committee Inc. (the "Ron Paul campaign") in response to a complaint filed by America's Survival Inc. ("America's Survival" or "ASI") on July 12, 2011 (the "Complaint"), alleging supposed violations of the Foreign Agents Registration Act ("FARA")'s ban on political contributions by foreign nationals when Russia Today Television ("RTTV") aired a segment of a news talk program wherein the host, Adam Kokesh, briefly reported on a Ron Paul campaign fundraiser and urged support for the candidate. The Complaint not only fails to identify any alleged violations by the Ron Paul campaign, but, even assuming the facts as alleged are true, there is no violation by RTTV or Adam Kokesh. Consequently, the Federal Election Commission ("FEC" or "the Commission") should find there is no reason to believe that any violation of the Act has occurred and close the file.

**Summary of the Facts**

Adam Kokesh is a talk show host. Since July 2010, Mr. Kokesh has hosted a weekday talk radio program called "Adam vs. The Man" out of 1550 KIVA in Albuquerque, New Mexico.

In April 2011, Mr. Kokesh's show was picked up by RTTV which aired it each evening. In late

August 2011, RTTV cancelled the show. As with many shows of this ilk, Mr. Kokesh's show was a mix of news and opinion. The show described itself as "reveal[ing] the reality of a government based not on protecting the freedoms of the American people, but exploiting them for the sake of the real power brokers and banksters who work behind the scenes. But it's not just about politics, it's about hving like a free, dignified iuman being, living like government doesn't exist, and loving it."<sup>1</sup> (These principles align closely with those espoused by Dr. Ron Paul on the campaign trail and in his more than thirty years as a public figure).

In 2010, Mr. Kokesh ran an unsuccessful campaign to secure the Republican nomination for New Mexico's 3rd Congressional District in the House of Representatives. Because of Mr. Kokesh's emphasis on personal freedom and a diminished role for government, Liberty PAC, the leadership PAC affiliated with Dr. Paul, contributed to Mr. Kokesh's campaign. Mr. Kokesh was only one of eight candidates that Liberty PAC contributed to during the 2010 election cycle.

Dr. Paul is well known for his openness with the press and desire to spread widely his political views. In the recent years, Dr. Paul has been the subject of thousands of television and radio interviews; only one of which was with Mr. Kokesh. Because of their similar political views, it is not surprising that Mr. Kokesh is among the over 200,000 individuals who have financially supported Dr. Paul's campaigns by contributing a total of \$200 to the current presidential campaign.<sup>2</sup> Mr. Kokesh was only one of over 2,200 individuals who contributed to the June 6, 2011 fundraising event referenced in the Complaint.

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<sup>1</sup> <http://www.adamvstheman.com/about>

<sup>2</sup> Mr. Kokesh contributed \$100 to the Ron Paul Campaign on May 6, 2011 and again on June 5, 2011.

**There is No Alleged Liability of the Ron Paul Campaign**

As an initial legal matter, it is unclear why the Ron Paul campaign has even been identified as a potential Respondent in this matter. The sole respondent listed in the Complaint is RTTV. While the Ron Paul Campaign was the supposed beneficiary of the allegedly improper activities, there is no claim of any improper action (or inaction) by the campaign, nor any suggestion that anyone affiliated with the campaign had knowledge of or participated in any suspect, much less prohibited, activities. There is simply no basis for liability on the Ron Paul campaign.

**There is No Violation of Law: The Alleged Activities are Covered by the Press Exemption**

The activity that America's Survival seeks to punish is clearly covered by the press exemption for news and political commentary, 11 C.F.R. § 100.73, and thus the Commission lacks subject matter jurisdiction over the conduct. As recently rearticulated by the Commission in Advisory Opinion 2011-11 (Colbert), the Commission applies a two-step analysis to determine whether the press exemption applies.

First, it asks if the entity is engaging in a press activity. America's Survival does not question, and there is no doubt, that Mr. Kokesh is a member of the press. In fact, the very conduct that ASI challenges begins by declaring itself a news report ("I'd like to end tonight on a note of some good news.")

Second, the Commission asks (A) whether the entity is owned or controlled by a political party, committee, or candidate, and (B) whether the press entity is acting in its legitimate press function. There is no evidence to suggest that RTTV is owned or controlled by any political party, committee, or candidate and the allegedly violative behavior was clearly Mr. Kokesh

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acting as a legitimate member of the press and reporting about the campaign activities of Dr. Paul. Just as Mr. Colbert's reports on the activities of the Colbert Super PAC are covered by the press exemption, Mr. Kokesh's coverage of, and even endorsement of, Dr. Paul are equally exempt. *See also* MURs 6242 (Hayworth), 5555 (Ross), and 4689 (Dornan).

**Foreign National Restraints Are Not Violated Because There Was No Contribution**

The Commission has previously recognized that the sale of advertising time on a foreign-owned television station to Federal candidates and their committees is permissible. *See* Advisory Opinion 2010-05 (Starchannel). Foreign ownership of a television station does not serve as a de facto bar to the channel carrying any content regarding a U.S. election as strongly suggested by America's Survival's complaint. Because the complained of report by Mr. Kokesh is not a contribution under 2 U.S.C. § 441e(a)(1)(A), the fact that the content may have been televised on a foreign-owned television station is irrelevant. The conduct is exempt whether the station owners are American, Mexican, or (as alleged here) Russian.<sup>3</sup>

**Dismissal of this MUR is Required by Commission Policy**

The FEC's Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545 (March 16, 2007), details numerous grounds on which the Commission may dispose of an action. First, it can find "No Reason to Believe" because the "complaint fails to describe a violation of the Act." In this matter, America's Survival's complaint "fail[s] to give rise to a reasonable inference that a violation has occurred, or even if the allegations were true, would not constitute a violation of the law."

Even if the allegations could somehow be viewed as possibly supporting some violation,

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<sup>3</sup> For purposes of this response we accept as true ASI's allegations regarding the ownership of RFTV although there is no evidence proffered to substantiate such claims.

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the Commission policy notes that the Commission has the authority and discretion "to dismiss matters that do not merit the additional expenditure of Commission resources." This is precisely such a situation. Here you have a talk-show host on a minor cable station accessible only in limited areas of the country making a brief exhortation of support for a federal candidate without any suggestion of wrongdoing attributable to the candidate or campaign. It is hard to imagine a matter less meritorious upon which the Commission could spend its resources.

**Conclusion**

For all of the reasons discussed above, the Commission should determine that there is no reason to believe that Ron Paul 2012 Presidential Campaign Committee Inc. committed any violation of applicable law and close the file.

Sincerely,



Brett G. Kappel

Counsel for Ron Paul 2012 Presidential Campaign Committee Inc.